Previous references.

SR 197-11 (7 to 10)
197-11 (1 to 6)
Later references (1-4)
Ex 95-W (1-6)
Ex 46-23. Pt
Ex 35. 24-3.
Rly dept no 11-2 2

1914-12. (Municipal

File No. 272-11
Serial Nos 1 to 18 Bdls

GENERAL AND REVENUE SECRETARIAT.

Serial Nos 1 to 18 Bundle 13

Page B for October 1912

SUBJECT

Arrack Registration & Surcharge fees in Bangalore & Nagpore cities

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(1) From the Resdt Bangalore city mel-Ch no 158 dt 12-4-12 Reqg for reconsideration of FD. no 6523-4 mel 327-12 dt 1-3-12 directing the stoppage of the levy of registration & Surcharge fees on arrack shops in Bangalore city, as the municipality will lose Rs 200000/— annually by the sudden withdrawal of excise revenue.

To the Excise Comr. no H 4492 dt 16-4-12 Directs that an addl clause shall be added to condition 8 of the notification SR 197-11-5 of the rule of Excise privileges for 1912-13 & the levy of Registration & Surcharge fees as formerly, in addition to the usual Municipality & Agency taxes in the Bangalore Cantonment bills etc. & enlarging the Municipal limits

GPB—1,000—11-11

...rned to note & take cognizance, as in ...
...ndency changes that have to be made ...
...regard to the condonation of the foreign ...
...ence for 1912-13 applicable to Bangalore & ...
...cities.

(3) From the Dy Comm Bangalore no 3883 dy 15-4-13 ...
...in brief for information copy of his letter no ...
dy 15-4-13 to the Revenue Commr in re the abo...
of Registration & Surcharge fees on Excise sho...
in Bangalore city

(4) To the Presidt Bangalore city mtl cl no 8525 dy ...
forwarding copy dft & requesting him to expedite ...
submission of the report of the Sub-Committee

(5) To the Presidt. Mysore city mtl. cl. no 8253 ...
dy 8-5-13 forwarding copies of dft 2 & 4.

6) From the Presidt of the Mysore city mtl cl no 3013-24 ...
Requesting under the circumstances stated ... the
the G.O no 6523-4 mtl 327-10-4 dy 11-8-12 regarding
registration & surcharge fees are illegal & that
steps taken to impose such taxes are ...
under New mtl. Regn. may be reconsidered

7) To the Presidt. Bangalore city mtl cl. no 9594 dy ...
Requests him to expedite the submission of the rep...
called for in dft 4

8) From the Presidt mtl cl Mysore, no 4, 817-7 ...
Requests early reconsideration of the G.O ...
- increasing the levy of Surcharge fees ...

9) To the Presidt. mtl. cl. Bangalore, no ...
Requesting him to submit the report called ...

10) To the Presidt mtl cl ...

11) From the Presidt mtl cl Bangalore, no ...
Requesting ... Rs 18000/- to meet the Registration ...
& Surcharge fees. They will be under the ...

G.R.S. 11]

1914-12 No C 24

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GENERAL AND REVENUE SECRETARIAT

(Municipal

NOTES

File No 272-11

FILE HEADING

Arrack Registration & Surcharge fees in Bangalore City and mofussil Cities

From The President Bangalore city municipal Council.

No 188 Dated 12/13 4 12 Received 15-4-12

Diary No 6022	Enclos. one Spare Copies	Serial No 1

BRIEF ABSTRACT OF LETTER

Prays for a reconsideration of Govt Nos. No. 6623-4/ml 327-10-4 dt 11.3.12 directing the stoppage of the levy of registration & Surcharge fees on arrack shops in Bangalore city as the municipality will lose Rs 20000 annually by the said withdrawal of Excise Revenue

NOTES AND ORDERS

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2) In Govt order No: 6623-4 dt 11.3.12 Govt observed that Govt order No 360/12 dt 17.4.1882 has no reference to municipal Regulated taxation & that it is not in force now & that the levy of registration & Surcharge

NOTES—First Sheet

GPB—30,000—12-2-11

J R. S 12]

General and Revenue Secretariat.

Mel File No. 272 of 1911—12

Serial No

fees were considered not legal inasmuch as the Mel Regulation of 1906 did not authorise the levy of either of these fees Under these circumstance the Municipality was requested to Cease from Levying these fees The President now states that by the sudden withdrawal of the excise Revenue, the Municipality will lose an income of Rs 20000 Annually & prays for reconsideration of the orders already passed & the money necessary instructions to the Excise Commissioner as the ensuing Arrack sales are to come off on the 20th Instant Submitted for orders with reference

3) Attention is respectfully invited to (130) extracts quoted in the margin 16 & 17 of para 2 of Govt order No 738396 dt 13.12.1897. Rf 53-94

4) The municipality had ample time to consider accede or make the question of the levy of registration fee and sur-charge fee and make such

NOTE—Contn sheet.

GBD—20,000—20-1-12

Serial No.

proposals as were necessary. It kept quiet all along and now that it is ordered to stop the levy of the fees unauthorisedly levied, it complains of loss and prays for a reconsideration of the order - The notification referred to in the respondt's letter of 1872 appears to have assigned to the municipality the license fee on the sale retail sale of spirits and intoxicating liquors ~~sanctioned~~ when the municipality applied for sanction to impose a tax on it in accordance with sections 3 & and 5-8 of the old municipal Regulation, on the ground that there was no intention of subjecting the sale of spirits and intoxicating liquors to a separate tax in addition to the license fee - But in 1889 two distinct levies seem to have been imposed. For the first time when under the notification of the 9th May, a new scale of license fees was prescribed for the benefit of the

Serial No

general revenues, in addition to the registration fees which were in the continued enjoyment of the municipality (Vide G O dated 13th Dec 1897) The provision in the old Regulation under which the municipality could impose the registration fee having been omitted in the new Regulation, the levy is clearly unauthorised and cannot be continued - It is hard to see what strength the Municipality gets in support of its proposal to continue the levy of the registration fee and the surcharge fee, by relying on the notification of 1872 The attack sales may however be held subject on the condition among others that the purchaser will have to pay all such taxes as may be due to the municipality, and the President may be requested to expedite the submission of the Sub Committee's report

Note—Contn sheet

GPB—50 000—12 8.16

G.R.S 12]
General and Revenue Secretariat

Fils No. 272 of 1911-12

Serial No.

with the resolution of the municipal Council in the matter -

Secy) 16.4.12. Hill

G.O. No 7(4432 - GR 197-11-S D(16 & 12 (31 2 enclosures below) [illegible]

5) Action has been taken in B.v.II instructing the Excise Commr to levy the Registration Surcharge fees as formerly, on behalf of Govt instead of the municipality. The question whether the municipality is entitled to the revenue maybe discussed. [illegible]

CSB
17/4/12

1) Please put up a note giving briefly with references how the Registration and Surcharge fees came to be imposed and how the municipality has been taking the revenues derived therefrom.

17-4-12 Hill

[illegible] 17.4.12

2) G.O. No 7(4432 D(16 & 12 GR 197-11-S to the Excise Commissioner in Mysore.

Directs that an additional clause may be added to condition [illegible] of the notification of the sale of excise privileges for 1912-13 [illegible]

Note—Contin. sheet.

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G R. S 12]

General and Revenue Secretariat

File No. 272 of 1911-12

Serial No

to the levy of Registration & Surcharge fees as formerly on behalf of Govt instead of the Municipality & requests the Excise Commissioner to issue handbills at once notifying this change in the ~~fees imposed~~ (~~in lieu of Bangalore Imposts~~) & also have it published in the next issue of the Mysore Gazette, & to note and take early action as to the corresponding Changes that have to be made in regard to the Conditions of the Foreign Liquor licenses Law 1912-13 applicable to Bangalore & Mysore cities.

2 The Registration and Surcharge fees which were in the enjoyment of Government before 1872 were transferred to the Municipality ~~Corporation~~ in the year 1872. The Registration fee was a fee leviable ~~payable to Municipality~~ under sections 58 & 157 of the Municipal Regulation. The Surcharge fee was a fee payable to the Municipality under condition II of Arrack licence

3 The office note in File R.F. 53-14 fully explains the facts of the case enumerated.

~~1(a) 2 (b)~~ 4) A copy of the order

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NOTE -Contin sheet.

G R. S 12]

General and Revenue Secretariat

Serial No

File No. 272 of 1911-12

current file (2)

of the 16th April 1912 may be sent to each of the Presidents of the Bangalore and Mysore City Municipal Councils. The report promised by the Municipal Council of Bangalore may be awaited

Secy) 18 4 12

1) Draft, submitted 25/4/12

2) Issue 3 5-12

NOTE—Contn. sheet.

GPH—20.000—20.1.12

R S 12]

General and Revenue Secretariat

File No. 272 of 1911-12

Serial No.	
3	13) From the Deputy Commissioner Bangalore Dt No 383 dt 15-4-12 Submits for information Copy of his letter No. 2188 dt 15-4-12 to the Excise Commissioner re the abolition of Registration & Surcharge fees on Excise shops in the city of Bangalore
	14) The Deputy commissioner in this communication requests that that pending final orders of Govt in the matter the license under the Registration and surcharge fees may continue to be paid to Municipal funds
	15) The previous papers on the subject were submitted to Secretary on 19-4-12 with reference
20/4/12	16) This may be submitted in Continuation.
	17) 20/4 (18) 20/4 25/4/12
	18) Submitted for orders The file has since been received back from the Secretary As directed in that file draft forwarding a copy of

NOTE—Contn sheet.

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R. S 12]

General and Revenue Secretariat. File No. [illegible] of 191 |

Serial No.	
	Duly o recently issued from Govt to the Presidents of the city and Councils of Bangalore & Mysore was put up for approval
	19) These papers may be included in that file after the draft is approved.
	20) Yes
	3 5-12

Note—Contd sheet.

G R. S 12]

General and Revenue Secretariat

File No. 272 of 1911

Serial No.	
4	1) To the President Bangalore No. 825-2 d 8/5/12. Forwards copy of 2 & 3 and requests him to expedite the submission of the report of the Land Committee
5	2) Do Do Despatch No. 825-3 d 8.5.12. Forwards Copies of do 2 & 4

NOTE.—Contin. sheet.

GPB—50,000—20-1-12

G. R. S. 12]

General and Revenue Secretariat

Jud File No. 272 of 1911

Serial No. 6

23) From the President of the city and Council, Despatch No 132 d 6th June 1912 (D 7247) Requests that in the circumstances represented, Govt. Nos 65-23-4 and 327-W)-4 & 6th March 12 ruling that the levy of either the registration or Purchase fees is illegal & that the levy of these fees be discontinued and steps taken to refund such sums as are admissible under the new Act Rule, may be considered

24) In the Bangalore city Municipal the question has been referred to a Sub-Committee for report and on its receipt a reply is due from the President to this office Comm. No 2252 dated 2nd 272-11)-4 the 8th May 1912. May the report called for from the Bangalore city Municipal Council be awaited?

25) Submitted for orders.

Put up 8/6/12

26) Yes, a reminder being issued, if necessary, to the Bangalore City Municipal Council

11-6-12.

Current file ... Bangalore ... with ... file ... and ... City Municipal ...

NOTE--Contn. sheet

GPS—20,000—20-1-12

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J R. S. 12]

General and Revenue Secretariat | File No. 272 of 1911

Serial No	
	27) Draft of a reminder is submitted for approval TSBG 11/9/12 28) Issued 12-6-12 Mll
7	29) To the Secretary City Municipal Council, Bangalore No. 9594 dt 14.6.12 Requests him to expedite the submission of the report called for in pl 4
8	30) From the President, Municipal Council, Mysore city. No. 418 7 9 12 (D 1622) Requests early reconsideration of the G.O discontinuing the levy of surcharge fees on arrack shops. 31) For the disposal of the case, the report called for from the President Municipal Council, Bangalore city has not as yet been received in spite of 3 reminders issued. 32) Draft of a D.O calling for early submission of the report called for is submitted for approval or other orders. TSBG 17/9/12 33) Issued SBP 18 9 12

NOTE—Contn. sheet.

G R. S 12]

General and Revenue Secretariat | File No. 272 of 1911

Serial No.	
9	34) To President and Council Bangalore city D.O No. 2353 dt 19 9 12 Requests them to submit the report called for as early as possible
10	35) From the President and Council Bangalore city No 78 dt 24.9.12 (D 2003) States that as the Council can not afford to forfeit such a large revenue as Rs 18000/- from the registration and surcharge fees, they will perforce be under the necessity of proposing a tax on the sale of Excisable articles within the limits if they are not allowed this item of revenue and requests sanction to the continuance of the levy of registration & surcharge fees by the Bgl. Council, the Bgl Regulation VII of 1906 being amended if necessary.
11	36) From the Secretary Govt dt 33 dt 26/9/12 (D 1920) to the Bgl. Council dt 1st April 1872 With effect from 1st

1st of April 1872

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NOTE—Contn. sheet.

G R. S. 12]

General and Revenue Secretariat

Mt File No. 272 of 191|

Serial No

the licence fees that were being levied on the sale of intoxicating liquors & credited to the General Revenues were made over to the Municipalities & Cantonments. The Bangalore & Mysore City Municipalities were in enjoyment of the following items of revenue from Excise up to the end of 1911-12.

(vi) - S

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Items	Amount	Authority
Registration fee on arrack shops (previously also called licence fee)	Rs 180 (1) per year for each shop	(1) Govt of India Notn No. 51 F dt 31.3.1871 Excise Manual Chap R
		(2) Sec 34 & 58 & 59 of the old Mal Regn
		(3) G O No 316-12 d 17 4 1882

P 70

NOTE—Contn. sheet.

GPB—80,000—20-1 12

C. R. S. 12]

General and Revenue Secretariat

Ist File No. 172 of 191

Serial No.		
	Item Amount	authority
11	Surcharge fees 4 annas a gallon levied on a shop during one month, in excess of 50 gallons.	(1) Sec 34 of the Ind Regn of 1871
4		(2) G I no 300-12 d 17 4 1882
V	Registration fee on foreign liquor shops. Rs 150 a shop a year	(1) Rules of May 1889
X		(2) G I no 7353-86 d 13 12 97 R 753-94
9		(3) G/N no 24 5-3-22 S R 241-11)-2 d 21 6 12
Present Regn		On the ground that the Ind Regulation VII of 1906 contained no provision to justify the levy of Registration & Surcharge fees, the Ind Council of Bangalore was requested to discontinue the levy and to take steps to impose in their stead such taxes as are admissible under the New Regn and a copy of the Order was communicated to the President of the Ind Council, Mysore City.
329-10 B Mar 12 1-47		

NOTE—Contin. sheet.

G R. S 12]

General and Revenue Secretariat. | Govt File No. 377 of 1911

Serial No	
	Govt order authorising the omission in the Sale notification of the condition regarding payment of registration & surcharge fees was also issued (G.O. ? 4207 SR 197-11)-4
P	d 4.4 1912). Govt again Govt on a reconsideration of the question ordered the levy of registration & surcharge fees which are now credited to the Excise revenue
197-11)-5 O	under separate heads. In consequence
N	of Mem. of March 1912 the Mun
Z	Councils of Bangalore & Mysore lose from Rs 18000 to 20000 & Rs 9000 respectively. and they pray that this revenue be reassigned to them.
	37) The President of the Mun Council Mysore city considers
Comment Mem 5(6)	that the levy of the above fees by the Mun Council can be questioned under Sec (2) cl 6 & Sec 59 (xi) of the Mun Regn. The Sub Committee consisting of some legal Mun Councillors in the Bangalore city seem to think that the levy of the fees is not

Note—Contn. sheet.

R. S 12]

General and Revenue Secretariat | Mr File No. 97 of 191

Serial No

warranted by the New Regn. The Mr Council of the Bangalore city state that if this item of revenue is not made over to them they will have to suggest a tax, probably octroi as stated by one of the members of the Sub Committee) on the sale of Excisable articles. The President of the Mr Cl Bangalore city requests that this source of revenue which the Mr enjoyed for the past 40 years should be reassigned, necessary power being taken under the New Regn

38 Submitted for orders

T. 9

G.O. 12 (38) Till the beginning of the current year, the Municipalities of Bangalore & Mysore were deriving an income of about Rs 20,000 + 9000 respectively from the levy of registration & Surcharge fees on arack shops situated within the Mr limits. The question as to the legality of this levy by the Mr Council was considered by Govt and it was decided by Govt in their order No. dt. 1

Z

Note—Contn sheet

Serial No.

that the levy of either the registration or Surcharge fees was not authorised by the Mul Regulation & that the levy of these fees was not legal By this order the Municipalities of Bangalore & as stated above, have been suddenly deprived of an income of about 20000 & 9000 respectively

40) Both the Mul Councils have now addressed Govt pointing out that the levy of the fees in question was not entirely illegal as stated in the Govt order & representing the practical inconvenience arising from the deprivation of an item of revenue which they have been enjoying for a long time under the orders of Govt.

41) The question now for consideration is ~~not~~ practically one that concerns the Excise Dept & the Municipalities only Because Govt By The fees in question have not been remitted at all by Govt So as to afford relief to the contractor These fees, under the new condition

NOTE—Contin. sheet.

GPB—85,000—17-6-12.

[C. R. S. 12]

General and Revenue Secretariat. | File No. 272 of 1911

Serial No

relating to the Sale of licences are now being levied by the Excise Dept. So what the municipalities have lost, is gained by the Excise Dept. From a perusal of the file
0 No 197 of 11, it is clear that there is no question of foregoing these fees altogether by Govt. They are still to be levied, and under Govt Order No 374 dt 4th July 12 the income from
✓ these fees (GR 197-11)-S is to be credited to a separate head till the question whether the State Excise Dept or the Municipalities get the amount is finally decided
42) It seems unnecessary at the present stage to discuss the legal aspect of the questions regarding the levy of these fees by Mpl Councils which have been raised by both the Mpl Councils. Even Assuming that That, under the present Regulation, these fees cannot be levied seems clear The point on which emphasis may be laid is that these fees originally in 1872 were assigned to the derived from the Mpl Councils
W Mpl Council of Bangalore and that

NOTE—Contn. sheet.

C. R. S 12]

General and Revenue Secretariat. | M File No. 279 of 1911

Serial No

even now, there can be is no legal objection to any part of the revenue derived from liquor being being assigned over by Govt. to the Ind. Councils The question practically resolves itself into one of policy as to the expediency & necessity of handing over the income realised from these fee to the Ind. Councils

43) The practical difficulties arising from the withdrawal of a large amount of revenue from the Ind. Councils and the difficulty of substituting raising this revenue by other items of taxation are indeed apparent and have been recognised by the Excise Comr himself (vide his D.O. 26-3-1912 & 26-3-1912 in File No 197)

Z1 + Y1

Moreover, it is clear that the Order of Govt dated 4-3-12 seems to have been passed only because it came to their notice that the levy of the fee in question was not to be justified under the provns of the Ind. Regn and not because it was their desire to increase the State Excise revenue to

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NOTE—Contin. sheet.

GPB—50,000—17-6-12.

G R. S. 12]

General and Revenue Secretariat. | File No. 272 of 1911

Serial No

that extent Through the

44) It is submitted that though the levy of these fees by the Mul Council may not be legal, there is nothing to prevent Govt from assigning these fees to the Mul Council at present, in view of their long enjoyment of the same.

45) The Excise Comm^r may now be consulted & as to whether there is any objection to assign the income from these fees to the Mul Councils, as is stated to be done in Madras & Bombay.

Sd/ 15/11/12

See 4

46) The Mun^l Councils of Bangalore & Mysore were enjoying the receipts from the Registration & Surcharge fees on Transfers for many yrs 40 years these fees having been assigned to them by Govt. Recently it was found out that under the New Municipal Regn which came into force on 1st April 1906 these fees cannot be recovered so in order to legalise the levy the Govt ordered the necessary amendment to be made in

NOTE—Contin. sheet.

GPB—60,000—17-4-12

G R. S. 12]

General and Revenue Secretariat.

Govt

File No. 272 of 1911

Serial No.

Revenue interest & ~~amount~~ under the Trust Regulation. I believe the object of the Govt in ordering this change was more to regulate the levy & then make over the receipts to the Municipalities concerned than to add to their Excess Revenues & Govt I think this claim of the Municipalities for the receipts from the fees in question deserves favourable consideration & Govt & may be allowed.

47) There appears to be no necessity to consult the Excise Comm^r in this matter as proposed by the Asst Secy.

2nd Comm^r

48) The Excise ~~file~~ file on the subject to put up for ~~reference~~ perusal. Reference is invited to the last para of the Secretary's letter at Pt 2 a/10 of the notes in the file.

7/12/12

2nd Comm^r
& Secy

7/12/12

R 197-11, 1-6 X1

X1

Note—Contin. sheet.

G. R. S. 12]

2-1-96

General and Revenue Secretariat. | Govt File No. 172 of 1911

Serial No	
12	49 From the President, Govt Co. Mysore city No. 76 d 13.11.12 (D 2796) Requests early orders regarding the levy by the Govt Council of the registration & Surcharge fee on arrack shops in the city.
	50 The file was submitted to Secretary on 15/11/12 with D No 2003.
	Ds 69
	4/11/12 (15) 51 The return of the file may be awaited
	Sd 25-11-12
	Qrs Sec 25/11/12

Note—Contin. sheet.

GPB—61,000—17-8-12.

[R. S 12]

General and Revenue Secretariat

File No. 272 of 1911

Serial No

(54)

no doubt the municipality has been in the enjoyment of this item of revenue for a round 40 years. Hence the claim is based on this ground of long enjoyment but this should not be a bar to the exercise of the power of levying an exchange fee. As regards the registration fee probably the municipality has a right to it. It would be like the case to be worked up to show if municipality can lay claim to exchange fee or apart from the fact of this being enjoyed by the municipality for 40 years.

(55) I would suggest the case being worked in Branches III & IV in consultation

15/12/12

NOTE—Contin. sheet.

GPB—S.500—17-6-12

C. R. S. 12

General and Revenue Secretariat

File No. 272 of 1911

Serial No.

54) B IV to put up a note in consultn with B III.

55) I think — & this is what I meant to convey in my last note — that the Govt has no right to the Surcharge fees; but it is proposed to make over the receipts from the fees to the Govt as a concession in consideration of the fact that it has been in Enforcement for the past 40 years.

LB 16/12

56) To B or III & kindly advise on the legal aspects of the case

SDM 16/12/12

9 nov 56

Subd

W (III)

17/12/12

NOTE—Contn. sheet.

} R. S 12]

General and Revenue Secretariat

File No. 271- of 191

Serial No

57 The notes in this file have already become long and I must therefore apologise for a somewhat lengthy note. But as important questions have been raised a perusal of the previous correspondence becomes necessary, and I have attempted to give below a self contained narrative of the subject.

58 On the request of the Municipal Boards of the Petta and the Cantonment of Bangalore in 1871 for permission to impose a tax on spirituous liquors under Secs 34 and 58 of the Municipal Regulation then in force the Chief Commissioner recommended to the Government of India the transfer to the Municipalities of the License fees on the retail sale of spirits and intoxicating liquors which till then were being " levied as part of the public revenue". This modified recommendation was made on the express ground that the levy of a separate fee by the Municipality was not contemplated The Government of India sanctioned the recommendation of the Chief Commissioner in 187-, so that it is clear that the two Municipalities received a share of the excise revenue on spirituous liquors credited till then to the State revenues This is the starting point for our discussion

The

Notes—Contn. sheet.

Serial No

59 The next stage is 1877 On this occasion some modifications were introduced by the Chief Commissioner into the "Sadar Distillery System" in order No 4887/R.51 dated 16-8-1877 and it is laid down- inter alia- that "if the modified scale of license fee for the retail shops in the Pettah and Cantonments of Bangalore shall be prejudicially affected, the revenues of the municipalities of these places the Government would guarantee the deficiency" The license fee here referred to seems to have included the surcharge fee also, as the latter is only supplemental to the fixed fee of Rs30/- per mensem or Rs.340/- per annum. It may be noted at this point that the State was at this period also levying still head duty, but this was never and has never been assigned to the Municipalities.

60 In 1883, the Government considered that the scale of fees fixed by the Order of 1877 just referred to was too high and resolved on the introduction of a slightly reduced scale, viz, Rs15/- per month in Bangalore and Mysore towns This scale, it may be mentioned, has been in existence practically till now This is of course, beside the surcharge fee of 4 annas per gallon sold in excess of 60 gallons in a month.

61 From Sir Seshadri Iyer's memorandum dated

Note—Contin. sheet.

Serial No.

dated 31st December 1886 on the changes introduced into the system of arrack manufacture and vend, we find that the Municipality of Bangalore continued to enjoy the license or registration fee of ₹15/- per mensem plus the surcharge fee. The memorandum expressly mentions (~~para 7 of~~) that the rate of surcharge, then 4 annas per gallon, might be fixed by Government from time to time, thus emphasising the fact that throughout it was a State levy, though assigned to the Municipalities

cl 9 of Mr. Income and Schon X(b) of the Mys. vend. rules. T1 S1) (4)

(R 7 89-92) R1 as 2 & 3).

12 We enter on doubtful ground at the next stage In connection with a controversy with the Residency about the wholesale price of arrack issued to the Civil and Military Station Sir K Sheshadri Iyer has noted in a memorandum dated 8-8-1888 that the levy of the registration fee of ₹15/- per mensem was being made by the Municipality under Sec.58 and Sch.2 C of the Municipal Regn of 1871 and that the surcharge fee was being levied under the provisions of the Excise Regn then in force, and that the Municipality was not entitled to it under strict law- " it is virtually a portion of the Excise Revenue, the authority for it is under Clause b Sec.55 of the Excise Act" In regard to this statement, I beg respectfully to submit that the previous correspondence does not seem

Norm—Contin. sheet.

Serial No.

seem to substantiate it.

63 A reference to the letter already referred to of the Chief Commissioner to the Government of India dated 9th March 1872 shows that though the Municipal Boards of the Petta and Cantonment asked for permission to levy taxes under the Municipal Regulation (Sec 58 included) the Chief Commissioner recommended that instead of a separate levy (by the Municipalities) the license fees levied "as part of the Public Revenues" might be made over to the Municipal Boards. This was sanctioned by the Governor General. So that it is quite evident that the Municipalities never exercised directly their powers under Sec.58 of the Municipal Regn.

64 The other orders of the Government referred to above, viz. of 188~, modifying the scale of license fees from time to time (Rs.10 to 15 and so on) without any reference to the Municipalities concerned shows that even as regards the "registration or license fees" the Government was acting under the Excise Regns. It may also be respectfully submitted that the Municipalities had no power "to levy surcharge fees as there was no power under the Municipal law" is opened to question While reference has been made in the memorandum to Sec 58 of the

Municipal

Serial No

Regulation which authorises a "registration fee". Sec 34 of the same Regn, which gives power to a Municipality to levy a tax on the sale of spirituous and intoxicating liquors seems to have been overlooked In fact in 1871 the Municipalities has asked for permission to exercise their powers under both these Sections, but, as already noted, the Chief Commissioner recommended that an assignment might be made out of the Public Revenues instead of a separate levy

It is thus quite clear that in 1888 the Municipalities levied both registration and surcharge fees, though the levy of the latter was under the Excise Regn, and the Municipalities continued to enjoy both till very recently, i e till 1911, when the question was raised whether, having regard to the provisions of Sec.59 and Sch 3 of the New Municipal Regn (1906), which fixes a maximum fee of Rs50/- per annum for abkari renters' licenses, the Municipalities have power to continue to levy the old rates of (1) a registration fee of Rs180/- per annum and (2) a surcharge of 4 annas on every gallon sol in excess of 60 gallons

66 The short history of the levy of these duties sketched above demonstrates clearly that neither levy in Bangalore was mad under

NOTE—Contn. sheet.

under the Municipal Regulations in force from time to time and the repeal of the Municipal Acts of 1871 and 1888 and the passing of the Regulation of 1906 do not really touch the question. As already stated, both are levies by the State and under the authority of the Excise Laws Strictly speaking the practice of the Municipality itself levying the registration fee which has grown up is illegal though the practice which might have been regularised by taking action under Sec 58 which seems never to have been done and though it has been presumed (on what authority it is not possible to trace) in the Govt. Order of 31st December 1888 that in Bangalore the levy was being made under Sec.58 of the Municipal Regulation

No. 6107-10 9
256
21-12-1888
9/1

67 It is likewise clear that the Municipality of Bangalore has been enjoying not merely a registration fee of Rs180/- but also a portion of the State excise (surcharge) and that the latter was deliberately assigned to the Municipality to supplement its income.

68 The answer to the questions raised in this file and by the late and Councillor may therefore be briefly summarised as follows.-

(1) So far as Bangalore is concerned the repeal of the old Municipal Regn does not really affect the question, but it has been discovered

u

Note—Contin. sheet.

Serial No.

discovered that the practice of the Municipality itself levying the registration fee has throughout been illegal,

(3) A portion of the excise revenue derived in the City is being deliberately given over to the Municipal Council, so that they seem to be entitled to a continuance of the privilege- the more so because these items are peculiar to the two towns of Bangalore and Mysore and the State derives its own revenue separately, viz., shop rent and still-head duty

69 As under the present Municipal Regn. these levies cannot be made except to a very limited extent, two courses of action may be suggested, viz. either to suitably amend the Municipal laws or to make special provision in the excise sale notification in respect of the shops in Bangalore and Mysore, as we did this year The former course seems to be open to the objection that it might possibly lead to a conflict between the Municipalities and the State Excise Departments- though such a contingency is not probable. The latter procedure seems to be simple and has the advantage of having been already in operation

(12) Pt. Rs 5-0

Note—Contin. sheet.

The

R. S 12]

2796

General and Revenue Secretariat | File No. | of 191

Serial No.	
	70 The same considerations apply to the Mysore City, though the history of the question differs somewhat in details not having any bearing on the main question involved
	17/1/13
No 221	The Branch IV.
	72 S(13) 22 1 13
	24/1/13
	Dy Secy)
	73 The flagmarking is too circuitous Please refer information required on separate routine note. 27/2/13
	74 Submitted with a separate routine note.
	T1869 25/4/13
	75 The legal aspects of the question have been fully replied upon by the Asst Secy (Mr Narayanaya) in paras 57 to 70. The administrative aspects have been dwelt upon in the Notes of the Asst Secy, Secy & the Sole Law Counsellor (Paras 39 to 45, 46 & 47, & 52 & 53 respectively)
	76 The two main aspects have been fully dealt

NOTE—Contin. sheet.

R. S 12]

General and Revenue Secretariat

File No. 272 of 1914

Serial No

the right conceded to them so long that they can be so reasonable doubt about its recognition.

2nd Counsellor

Dhruvaprasad
26/5

47.

The facts & the case of the municipality of Surat have been so well brought out that there is little left for me to add. The two persons municipality have enjoyed the income of their licence for over 40 years now uninterruptedly. The present dispute which now wants to claim the income may well be accused of having slept over its rights for so long. It can well appeal to forego its income in favour of the municipalities. It will be taking off a load which out of the income of these two municipalities of the Surat now ask them to forego what they have been enjoying for such a long period of forty years. I am of opinion that they should be persuaded & convinced their rights are beyond & proper remedies should now be accorded to them so that there may be no further misunderstanding their rights at any time.

NOTE—Contin. sheet.

GPB—60,000—1-7-12. 7/6/13

[G R S 12]

General and Revenue Secretariat | File No. 272 of 1911

Serial No.

3486/9.6.13

78 Dewan

26/7/13

79 The papers may be circulated to the First Councillor also, and the question brought up before a meeting of Council.

26 7 13

80 1st Councilor

26/7/13

81. I think the item may be formally assigned over to the Municipal Boards and the fast proceeds held in deposit transferred or I may add however that such a grant though enjoyed for a considerable length of time (as 60 years in this case) does not create any

Note—Contin. sheet.

S 12]

2796

36

General and Revenue Secretariat

Serial No

Rl File No. 272 of 1911-12

right of prescription against the Govt for its Continuance for ever. If necessary, this reservation may be expressly stated in the Govt order

4/8/13

(83)
C Sec'y
Note for meeting

Sd 4/8 or "4/8 Rly 4/8

NOTE—Contn sheet

G R. S 12]

2796

20
37

General and Revenue Secretariat

File No. 272 of 191 / 12

Serial No 84

Submitted with: ——— ———

——— Embrace of Council Proceedings and Final Note for approval

2nd Councillor -

Approved

9/9

By Dewan

5136
9.9.13

Note—Contin. sheet.

GPS—1,000—19-7-13

Extract from the Proceedings of the 302nd Meeting
of the Council of His Highness the Maharaja,
held at Bangalore on the 9th August 1913

VII. SUBJECT.—(Clause xii of the Schedule).

Proposal to make over to the Municipalities of Bangalore and Mysore, the realisations from the registration and surcharge fees on arrack shops in these Cities.

OPINION OF THE COUNCIL.

The realisations from the above items of excise revenue may be assigned to the Municipalities, the Government reserving to themselves the right to withdraw this concession at any time when the finances of the Municipalities permit. The past proceeds in respect of these items which are held in deposit may be transferred to the Municipalities.

"Extract"

Secretary to Govt.

Sd M. Visvesvaraya,
Dewan of Mysore

Mel 272-11)

Final Note by the Second Councillor

Subject —

Proposal to make over to the Municipalities of Bangalore and Mysore, the realizations from the Registration and surcharge fees on arrack shops in these Cities.

Till the beginning of 1911-12, the City Municipal Councils of Bangalore and Mysore were deriving an income of R$20,000, and R$9,000/- respectively from the levy of registration and surcharge fees on arrack shops situated within the municipal areas concerned, under the authority of the sanction given by the Government of India in 1872 in accordance with the provisions of Sections 34 and 58 of the Municipal Regulations then in force.

2 These fees, however, were not included among those authorized by the Mysore Municipal Regulation VII of 1906. Consequently Government directed in their Order No.6523-4/Muni.327-10-4, dated the 11th March 1912 that the levy of these fees directly by the Municipalities was illegal and should be discontinued; but that they should be recovered

Mel 272-11 40

at the usual rates by the Excise Commissioner pending final orders.

3. Though the Municipalities have no legal right to these fees under the Municipal Regulation of 1906, it is clear that their financial condition will be seriously impaired by the sudden withdrawal of a source of large revenue which they had been enjoying for nearly 40 years

4. The Council has considered the various interests involved and is of the opinion that the realizations from the above items of excise revenue may be assigned to the Municipalities, the Government reserving to themselves the right to withdraw the concession at any time when the finances of the Municipalities permit, and that the past proceeds in respect of these items which are held in deposit may also be transferred to the Municipalities concerned.

9/9/13

41

Jud 272 - II

Submitted to His Highness

E 86

I submit herewith a 'Final note' by the Second Councillor in the matter of the request of the Municipalities of Bangalore and Mysore that the realizations from the registration and surcharge fees on arrack shops in those cities, may be made over to the respective municipalities

7 of notes

2 The opinion of the Council that the realizations from the above items may be assigned to the Municipalities, the Government reserving to themselves the right to withdraw this concession at any time when the finances of the municipalities permit and that the past proceeds in respect of these items which are held in deposit, may also be transferred to the municipalities concerned, may be sanctioned

BR

Rl 2796-11 42

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject

Proposal to assign the registration and surcharge fees realized on arrack shops in the cities of Bangalore and Mysore to their respective Municipalities

no 252

Order.

87 Sanctioned
KRW
13/9/13

88 Sanctn
14 9 13 RG

89 Cccl
1619

90
15/9/13

3 IV
15/9
1619

91 Draft
Am
16/9/13
1619

[illegible] R. S 12]

General and Revenue Secretariat

File No. 272 of 1911

Serial No.

Flr nos 608-13

92) Draft submitted. The order may perhaps issue from Simla

TLS 61 18/9/13 Secy) Secy). 19/9.

93 A tedy draft as revised may be put up. Secy 20/9

94 Fair draft, submd.

TLS 61 20 9 18 Secy) Secy) 21/9

95 According to the views finally taken by the Council, Dr. [illegible] should be consulted before this issues. No draft. Please do so & thereby it confirmed in accordance with practice Secy 22/9

[illegible] (91) [illegible] Secy

Sd/- [illegible] 23/9/13

Sealed 96 Notification. Secy 23.9.13

97 [illegible] 24/9

Sealed 98 Fair draft as now revised & the issued 25-9-13

Secy) 99 issue vg Secy 1/10

Secy 2/10

Note—Contin. sheet.

GIP—65,000—17-C-12.

R. S 12]

General and Revenue Secretariat

File No. 272 of 1911

Serial No.		
13	10) To the Excise Comr in Mysore Comptr Resident and Cl Bangalore City Mysore City	No. 4066-9 d 3-10 13

Assigns the registration and surcharge fees realised on arrack shops in the cities of Bangalore & Mysore to the respective mul Councils

GIL—65,000—17-6-12.

Immediate

1911-12
120

From The President, Municipal Council,

To The Secretary to the Government of Ellapore,

Dated 12 " Genl & Rev Depts

Despatched 13 April 1912

Received

General No. 188

No.

Enclosure No. One

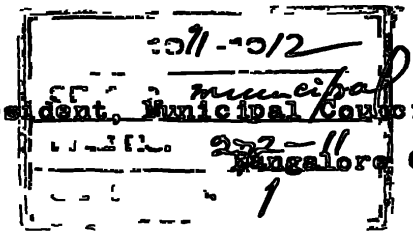
Submitting, for orders, copy of the Council's Resolution re: stopping of the levy of registration and surcharge fees on arrack shops in the City and requesting the issue of necessary instructions to the Excise Commissioner in the matter.

No. 188. Executive Immediate

Office of the Municipal Council,

Bangalore City, 12th April 1912.

6822 13



From

The President, Municipal Council,

Bangalore City.

To

The Secretary to the Government of

His Highness the Maharaja of Mysore,

General and Revenue Departments,

Bangalore.

Sir,

With reference to the Government Proceedings No. 6523-4-Municipal 327-10-4 dated the 11th Ultimo, directing to stop the levy of registration and sur-charge fees on arrack shops in the City, I have the honour to submit herewith, for the information and orders of Government, copy of the Council's Resolution dated the 30th Idem, referring the question to a Sub-Committee for report.

2. In this connection, I beg to state that the arrack registration and sur-charge fees seem to have been assigned to the Municipality so far back as 1872 by the late Chief Commissioner-Vide letter No. 195, Camp Simla, dated the 12th August 1872 from the Secretary to the Government of India to the Chief Commissioner in Mysore-communicated to the Cantonment and Town Municipal Boards through the Secretary's Memo. No. Gl. 2760/603 dated the 19th August 1872. The Mohatarfa revenue was similarly assigned to the Municipality as per late Chief Commissioner's Circular Order No. 265 dated the 28th September 1860.

3. In the Regulation of 1871, Section 34 provided, among other taxes, tolls and rates, the levy of a tax upon the sale of spirituous and intoxicating liquors. As the Mohatarfa Notification had assigned to the Municipality the mohatarfa revenue within the City limits, so the Notification of the Government of India No. 195 dated 12-8-1872 similarly assigned to it the revenues arising from the

2

Registration Fees on liquor licenses The Board did not therefore feel called on to introduce the professional tax The question of the introduction of the professional tax was brought up before the Board many a time, but it was unanimously rejected on the ground that its revenue would be seriously crippled For the same reason even after the introduction of Regulation, VII of 1906, the Board has not given effect to clause 10 of Section 59 in the matter of the professional tax relying upon the old Chief Commissioner's Notifications referred to

4 The sudden withdrawal of the Excise Revenue at present involves a loss of about Rs 20,000 annually to the Municipality

5. Such a large deficit every year in the Municipal Funds, in its present crippled condition, would, it is apprehended, seriously interfere with the execution of several urgent and important P W D and Sanitary works

6 I therefore request that you will kindly move the Government to re-consider the orders under reference and issue necessary instructions to the Excise Commissioner as the ensuing Arrack Sales will be held on the 20th Instant.

I have the honour to be

Sir,

Your most obedient servant,

President, Municipal Council,

Bangalore City

Extract from the Proceedings of the Bangalore City Municipal Council at an Ordinary Meeting held on the 30th March 1912.

Present.

B.J.Kumaraswami Naik Esq
President.
N.Subba Rao Esq
Vice President.
H D.Rice Esq
Executive Engineer,
Bangalore Division.
A.K.Pani Esq
Health Officer
A.Hayes Esq.,
Amildar, Bangalore Taluk.

Absent.

Municipal Councillors.

Messrs:-

D.A.Rees
D B.Ramachandra Mudr
C.V.Narasimha Iyengar
B Ramachandrappa
D Adeppa
B.V.Ramaswami Chetty
BUsman Khan
H.Ramaiya
B.Hanumappa
C.Krishnamurti
Beli Srinivasa Rao
D.Venkataramayya

Messrs:-

G.H.Krumbiegel
S.Venkataranga Iyengar
C S.Doraswami Iyer
B K.Garuda Char
B Basappa
Mir Md Gows Razvi
M Subbiah

---

12 Government Proceedings No 6523-4—Ml 82"-10-4 dated the 11th March 1912, directing to stop the levy of Registration and Sur-charge Fees on arrack shops in the City involving the loss of Municipal revenue to the extent of about Rs 18,500 as the Municipal Regulation 1906 does not authorize the levy of either, and to take steps to impose, in their stead, such taxes as are admissible under the present Municipal Regulation

Resolution -The question will be referred to a Sub-Committee consisting of the follcwing gentlemen for report -

Messrs D Venkataramayya, C Krishnamurti, C V Narasimha Iyengar, H Ramaiya & B V Ramaswami Chetty

2 The report should be submitted as earl as possible.

3 Meanwhile, a report should be submitte at once to Government, stating that the question involves a heavy loss of

4

revenue to the Municipality, and that as the Abkari Sales are to commence on the 20th April, the Council think it necessary that due provision should be made for the levy of Registration and Sur-charge Fees as heretofore.

Sd. B.J.Kumaraswami Naik,
President.

COPY

For President.

DIN

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read:-

Government order No.Fin 4207/S.R.197-11-4 dated 4th April 1912, authorising the omission of clause 10 of condition XX of the Notification of sale of excise privileges for 1912-13 regarding the payment of registration and surcharge fees by the licensees of arrack shops in the cities of Bangalore and Mysore.

****

Order thereon No. H4432 / S.R.197-11-5

Dated Bangalore 16 April 1912

1. On further consideration Government are pleased to direct that an additional clause Viz No.10 be added to condition XX as follows:-

" The licensee of every shop in the cities of Bangalore and Mysore shall pay a registration fee at the rate of Rs.180/- (One hundred and eighty rupees) per annum in advance for the period of the license for his shop and he shall pay sucharge fee of (4s) four annas per gallon on all arrack sold by him in excess of (55) fifty five gallons a month in each such shop".

2. The Excise Commissioner is requested to issue handbills at once notifying this change in the areas concerned and also have it published in the next issue of the Mysore Gazette.

3. The Excise Commissioner is also requested to note and take early action as to the corresponding changes that have to be made in regard to the conditions of the Foreign liquor licenses for 1912-1913 applicable to Bangalore and Mysore cities.

for Offg Secretary to Government

To,

The Excise Commissioner in Mysore

G.H.V.

Copy to Branch IV for information

J 7

Office of the Deputy Commissioner
Bangalore District.
Dated Bangalore, 15th April 1912

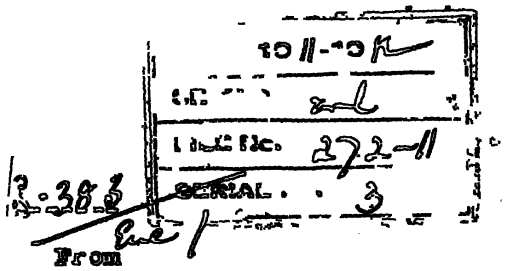
Ex Bkl 272-11
13

maraswami Nair Esq., B.A.,
Deputy Commissioner, Bangalore District.

ntesvara Iyer Esq., B.A., B.L.,
ffg: Excise Commissioner in Mysore.

the honor to state that on the receipt of
.o.7399 dated the 15th March 1912, forward-
of Government Proceedings No.6523-4/Ml.327-10-4
4th idem, directing the abolition of Regis-
tration and Exchange fees on the arrack shops wi-
in the Municipal limits of Bangalore City, the President
of the City Municipal Council was requested to intimate
the amount and nature of tax leviable under the New Muni
cipal Regulation of 1906 to enable necessary announce-
ment been made at the ensuing sale of Excise shops in
the City. The President in reply states in his letter
No.2247 dated 11/12th April 1912(copy enclosed for in-
information) that the legal aspects of the qestion are
under the consideration of the Sub-Committee appointed
by the Board

While observing that legal difficulties may arise
in the way of contractors selling spiritious liquors
within the City Municipal limits without obtaining a
license therefor as hitherto, the President of the Muni-
cipal Council suggests that pending final settlement
of the question, the existing practice may be con-
tinued. Since the excise sales in the City come off



Office of the Deputy Commissioner
Bangalore District.
Dated Bangalore, 15th April 1912.

From

B.J.Kumaraswamy Naik Esq., B.A.,
Deputy Commissioner, Bangalore District.

To

C.S.Balasundaram Iyer Esq., B.A.,
Offg Secretary to Government of Mysore,
Genl and Rev Departments.
Bangalore.

Sir,

I have the honor to submit herewith for the information of Government, copy of my letter No. 2183 dated 15/4/12 to the Excise Commissioner, in re the abolition of Registration and Exchange fees on Excise Shops in the City of Bangalore.

I have the honor to be
Sir,
Your most obedient servant

Deputy Commissioner.

190

From

Rec'd 19/1/12

The Deputy Commissioner
Bangalore

To

The Secretary to Govt
of Mysore - Revenue Dept
Bangalore

Dated 16-1-12

Despatched

Received
23

General No. 383
No.

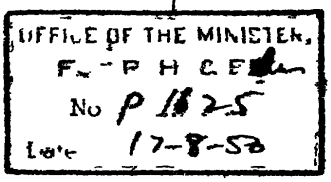
Enclosure No. 2

Submitting copy of letter addressed to Excise Commr re the abolition of registration & fee charged for Excise Shops in the city &c &c.

Ministry for A S G
W/c

1809
16/8

Kannaiah Shetty
Proprietor City Cafe
Kempegowda Road
Bangalore.



The Excise Commissioner
In Mysore and Bangalore
Bangalore.

I the undersigned respectfully beg to bring the following few lines to your kind perusal and favourable orders.

1. I beg to put you in mind of my humble petition dated 15th June 1950, and subsequently, I remitted to the Taluk Treasury, Bangalore, the sum of rupees one Thousand for the license fee of the Bar for the year 1950-51, and another sum of rupees one Hundred and eighty towards Municipal Registration fee is not in the Corporation Act yet it has been collected from all the Foreign Liquor Licences I regret to state that the Foreign Liquor Licencees in the Civil Station Bangalore, have been entirely exempted from paying his Municipal Registration fee. I fail to make out why such exemption has not been extended to city Licencees of the Foreign Liquor. I request you therefore that you will be pleased to inquire into this unjust and unreasonable levy of the Municipal Registration fee which is not found in the Corporation Act and kindly order the refund of the same to me.

2. I beg to submit that the Excise Inspector Bangalore visited the Bar and wrote in the Inspection dairy to the effect that the Licence fee has been enhanced by 50% for the current year for all the Bars in the city and in view of this, that I should also pay a further sum of rupees five hundred immediately. This I beg to point out, has been a heavy toll upon the licencees, who are burdened from year to year with the ever enhanced licence fees, as could be witnessed from the under mentioned figures.

t the License fee was Rs.180/- per year for
ch foreign liquor Bar. This was in force up
the year 1946.

r on i.e. from 1947 to 1949 the Licence fee
increased to Rs.500/- for each Bar.

the year 1949-50 the above Licence fee was
creased to Rs.1000/- per year in addition to
the tonnage fee of Rs.4-8-0 on liquor per
gallon and Rs.0-12-0 on Beer per gallon from
month to month. Whereas, this year the licence
fee has been, increased to 50% per year, which
means that each Bar will have to pay a sum of
Rs.1,500/- per year.

P.T.O.

In the year 1937 this fee was increased to Rs.500/-. But from the year 1949 the license fee was raised to Rs.2,000/- plus a new tax like the current year called gallonage duty as explained above. But unfortunately the license fee for the year 1950-51 has been increased to rupees Three Thousand plus the above mentioned gallonage you will therefore kindly observe from the above facts, that the license fee has been increased in leaps and bounds, without any restriction or regard to the well being of the foreign Liquor Dealers, who are becoming very unhappy on account of the heavy license fee and gallonage.

It may interest you to hear that in the State of Coorg, there is no Auction either for Arrack or Toddy but yet it is a Scientifically run, without any scope for the evil practice of illicit Distillery. This can be tried in the prohibition Districts of Mysore State. The Licence fee levied in foreign Liquor Bars and Shops in Coorg is only Rs.120/- per year and there is neither a surcharge or a gallonage duty. In Baroda, Bhavanagar and other towns of Northern India there are no Licence fees, but only the gallonage duty is levied. But in the province of Hyderabad, the licence fee in Foreign Liquor, on whole-sale as well as Retail Bars, is only Rs.750/- in Hyderabad currency which is equalent to Rs.550/- of Indian Currency and there is no gallonage duty or surcharge there in Hyderabad. In South India before the days of prohibition in places like Coimbatur, Salem, Trichnapally, Madura and such other places the licence fee for a Foreign Liquor Bar or Shop, was only Rs.50/- during the British regime and subsequently raised to Rs.100/- by the popular Ministry. In addition to this, a small gallonage duty was levid.

It should be submitted with due respect to your judicious wisdom that the so called gallonage duty was originally meant to shipping firms only because they had no Licence fees to be paid. Later on this gallonage duty was extended to clubs, Messes, and Regimental Institutions, because they were not paying licence fees. This principal was been thoroughly misunderstood and a double heavy fee has been levid on the licencees.

But more tragic than all is the indiscrete mode of granting numerous Foreign Liquor Licences in the recent years by interested men, which has badly crippled the business of the long-standing licencees, apart from causing untold financial loss. Consequently this business which was the lot of the commonman has now become the trade of the capitalist or the illicit Distiller, or a prohibition Smuggler, who can run without any loss.

It will not be out of place if I respectfully venture to submit the words of the Honourable Prime-Minister of India, who said In one of his most recent speeches "We have in our constitution largely accepted British practice, in constitutional matters and British practice." The existing practice of putting the tenders on auction, is unkown in European as well as all over India, except in Mysore State, which gives a scope to some interested persons to adopt capricious methods.

In the light of the above circumstance I beg to pray that

P.T.

In the light of the above circumstance I beg to pray that you will be pleased to consider the heavy burden of increased license fee, heavy gallenage duty and kindly order the refund of the Municipal Registration fee, as it is levid illigally as the Corporation act does not contain the same and for which act of kindness, I beg to remain grateful for ever.

Yours faithfully,

B. S. Kannabhatta

Bangalore,

24th July, 1950

Copy submitted for kind perusal and consideration of:-

1) The Hon. Chief Minister, Govt of Mysore, Bangalore.

2) The Hon. Minister in-charge of Excise Department Govt of Mysore, Bangalore.

3) The Hon. Finance Minister, Govt of Mysore, Bangalore.

4) The Hon. Minister-in-charge of Health Department Govt of Mysore, Bangalore.

5) The Hon. Home Minister, Govt of Mysore, Bangalore.

6) The Deputy Commissioner, Bangalore District, Bang lore

off on the 20th instant and the sale notifications revised as per Government order No PI.4207/S.R 197-11-2 dated 4th April 1912, omitting the old clause 10 of condition No.XX requiring the payment to the Municipality of Registration and exchange fees have already been published I think it is not practicable to adopt the above suggestion unless the sales are postponed and fresh sale notifications are issued. But as it does not seem equitable to deprive the Municipality all of a sudden of its income under this head before giving them sufficient time to frame the necessary Bye-laws under the new Municipal Regulation, I think it is fair that out of the amount of the realisations under -- "rental" such sum as may be decided upon not exceeding the average income under the Registration and exchange fees may be paid to the City Municipal Funds pending final orders of Government in the matter

I have the honor&c

Sd/-B.J Kumaraswami Naik,

Deputy Commissioner

"C O P Y"

Deputy Commissioner

G.R.S 26]

File No. 5/12

Serial No. 4

Diary No of letter replied to 6064

General and Revenue Secretariat

(Pol)

, the *19*

Date of issue 8-5-12

Signed by [illegible]

Current file Pol.

Z

G.O. No. 825

Pol 272-12

8-5-12

To

The President of
the City Municipal Council
Bangalore

Sir,

With reference
to your letter no 155
dated the 13th April
1912 praying for a
reconsideration of
Govt order no PS 23-4
Pol 327-10-4
dated the 11th March
1912, directing the

over

SUBJECT

the stoppage of the levy of registration and surcharge fees on arrack shops in the Bangalore city, I am directed to forward herewith copy of G.O. No. 4432 GR 197-11)-S dated the 16th April 1912 directing that the licensees of arrack shops in the cities of Bangalore & Mysore should pay to Govt the registration and surcharge fees.

The receipt of the [illegible] in the matter referred to the Sub Committee [illegible] is awaited.

I have the

[illegible]

for Secy

XY the addition of to cond. of the notification of sale of excise privileges for 1912-13 of an addition clause no. 10

Copies of the memorandum noted below are also sent

(1) No. 3981 GR 197-11)-2 dt 4
(2) No. 4-7 GR 197-11)-4 dt 4.4

President is requested to expedite the submission of the [illegible] Sub Committee for which the [illegible] of the right of the Municipality to the registration and surcharge fees is owned to be referred, together with a copy of the [illegible] of the Municipal Council thereon

Examined by

GPB—60,000—05-3-10

G.R.S 26]

2 duplicate

17

File No.

Serial No. 6

Diary No of letter replied to 6864

Cir
No. 8253
mlr 22-11-
9-8-12

General and Revenue Secretariat
(Mad)
, the 19

To
The President of the
City Municipal Council
Mysore

Date of issue 8.5.12

Signed by Mukund

Sir,

In continuation
of this office memo No.
6525 dated the
Mdl 327-40)-4
13th March 1912 forwarding
2 a copy of G O No. 6523-4
Mdl 327-40)-4
dated the 11th March 1912
directing that the Mdl.

over

SUBJECT

12

Commr Bangalore city should cease to levy the registration & surcharge fees on arrack shops in the city. I am directed to forward herewith copies of the marginally noted communications on the subject

Inward

Secy

for Secy

P.S to G

5/5/12

(1) G.O No. PL 4432 SR(97-11)-5, dt 8-5-12

(2) The office letter No. 8252 dt 8-5-12, to the President city Mcl Bangalore

(3) ~~G.O. 98 SR 97-1) dt 3-12~~

(4) ~~4207 SR 197-11) dt 4-4-12~~ with reference at the time of issue

List of enclosures,

(1) Copy of G.O

(2) Copy of letter to Government and Classified

Copied by

Examined by

GPS—10,000—5-9-10

7/5/12

1912.

From

The President, City Muni Council, Mysore.

To

The Secy to Govt. of Mysore, Gen and Rev Depts

Dated } 6th June 1912
Despatched }
Received

General No. 132

No.

Enclosure No. one

Submitting for reconsideration of Government a copy of the resolution of the Council in the matter of continuing the present system of levying the registration fees as the municipality will have to lose a very large amount by forgoing registration and surcharge fees from arrack shops.

13

D 7247

No 132

The City Municipal Office, Mysore,
Dated the 6th April 191 2.

From

Cul 272-11/8 6

K.Krishna Iyer, Esq.,
President, City Municipal
Council, Mysore.

To

C.S.Balasundaram Iyer, Esq., B.A.,
Secretary to the Govt of Mysore,
General & Revenue Depts

Sir,

With reference to Government Order No.6523-4/H1. 327-10-4 dated 11th March 1912 ruling that the levy of either the registration or surcharge fees is illegal and directing that the levy of these fees be discontinued and that steps be taken to impose such taxes as are admissible under the present Regulation No.VII of 1906, I have the honour to forward copy of resolution No.III dated the 30th April 1912 of the Council and to request that under the following circumstances Government be moved to consider whether the levy of the fees could not be sanctioned -

2. The grounds on which the Government Order is based are :-

(i) The imposition of the registration and surcharge fees was itself not legal because the Government Order No.860-12 dated 17th April 1882, cited by the President of the Bangalore City Municipal Council does not refer to Municipal taxation

(ii) Even if the imposition of the fees was legal under the old Regulation, the levy is illegal under the present Regulation

Regulation VII of 1906 as this has superceded the old Regulation.

(iii) The Present Regulation does not authorize the levy of the fees.

3. In regard to the first ground viz.that the imposition of the fees itself was illegal, I may be permitted to state that it does not appear that the authority under which the fees were imposed in Mysore had been brought to the notice of Government while passing this order. This had been explained at length in letter No. 27 dated the 11th July 1911 from the Vice President to the Excise Commissioner. The fees were imposed under Section 58 Schedule C.2 of Regulation III of 1884 in accordance with Government Order No.6107-10 dated 21st December 1888. Again in 1902, in their Order No.9449-50/L.F.139-03 dated 6th December 1902, Government refused to sanction the change from the system of levying the fee in half yearly instalments to one of collection in monthly instalments, proposed by Municipal Council. Further in summary trials Nos 99/141 of 1902-03 and 219/261, 262 of 1901-02,vendors of liquor were fined by the City Magistrate for keeping arrack shops without having registered the same under Section 58 of the Municiral Regulation

4. It is true that the registration fee and surcharge fee are not expressly mentioned in Section 59, which contains an enumeration of the taxes which may be imposed whereas the old Regulation provided for the levy of the Registration fee express-ly in Section 58. But whether this omission is equivalent to a prohibition seems very doubtful in view of Section 59 clause (b) sub clause XI of the Present Regulation.

5. As regards the 2nd ground viz that the present Regulation having superseded the old Regulation, the levy has ceased to be legal, it seems to me that the fees in question are

are saved by proviso (b) to Section 2 of Regulation VII of 1906 under which taxes and rates imposed under the old Regulation should be deemed, so far as may be, to have been imposed under the present Regulation. If the levy of these fees were held to be illegal — merely on the ground of the supersession of the old Regulation by — the present Regulation, the shop taxes imposed under the Mohatarfa rules of the Revenue Mannual from a time anterior to the earliest — Municipal Regulation would probably have to share the same fate.

6 In regard to the 3rd ground viz that the present Regulation does not authorise the levy of these fees, it seems to me that Section 59 clause (b) sub clause XI of the present Regulation authorizes the levy because it authorizes the imposition of any tax to which the approval of the Government shall have been obtained prior to the — selection contemplated in sub clause (1) of clause (a) of Section 60 i.e before the present Regulation came into force. The registration fee was introduced in pursuance of Government Order No.6107-10/286 — dated 21st December 1898 and the surcharge fee was levied as directed in Government Order No 277-8/L.F.139-97 dated 8th July 1897

7 In these circumstances, and in consideration of the fact that the abolition of these fees will mean a loss of Rs.9,000 which the Municipality in its present financial condition cannot afford to lose, I request that the Government be kindly moved to reconsider their order

I have the honour to be,

S i r,

Your most obedient servant,

President.

R V R

Contd 272-11/16 16 2

Proceedings of an ordinary meeting of the Municipal Councillors for the City of Mysore held in the Ranga Charlu Memorial Hall at — 7-30 A.M. on Tuesday the 30th April 1912.

PRESENT.

1. K.Krishna Iyer, Esq., (President).
2. M.C.Krishnaswami Rao, Esq., B.A., (Vice President).
3. R.V.Sundaram Iyer, Esq., (Executive Engineer).
4. Doctor J.V.Karve, (Offg.Health Officer).
5. M.Venkatakrishnayya, Esq.
6. S.Venkata Char, Esq.
7. Ambie Anniah Pandit, Esq.,
8. N.Srikantiah, Esq.
9. M.Narasimhaswamy Esq.,
10. Rahimatulla Ahomed Sait, Esq.,
11. Mahomed Jaffer Saheb, Esq.,
12. A.Subbanna, Esq.,

ABSENT.

1. S.V.Krishnaswami Iyer, Esq., B.A., (Ag.Amildar, Mysore).
2. Jahagirdar Madappa, Esq.,
3. Mahomed Sait, Esq.,
4. M.C.Rangiengar, Esq.,
5. M.Amantharajiah, Esq.,
6. Madappa, Esq.,
7. V.Tiruvengada Mudaliar, Esq.,
8. Rev.H.Gulliford.

Ordinary propositions.

III Correspondence ending with letter No.279 dated the 18th April 1912 from the Amildar on special duty in the matter of continuing the present system of levying registration and surcharge fees from arrack shops.

The question be referred again to Government for reconsideration as the Municipality will have to lose a very large amount by foregoing the registration and surcharges fees from arrack shops.

(Sd) K.Krishna Iyer
President

"Copy"

K Krishna Iyer
President

MVR

R V.R

G R S 26]

File No 272 11

Serial No 7

Diary No of letter replied to 7245

General and Revenue Secretariat

(Mil)

, the 191

Date of issue 14 6 12

Signed by Mr K M R

No. 9594

Mil 272-11

8/14 6 12

To

The President of the city Municipal Council

Bangalore

Sir

I am directed to invite your attention to this office letter No. 8252 dated the 2nd 272-11)-4 8th May 1912 requesting early submission of the

over

SUBJECT

Report of the Joint Committee to which the question of the right of the owners to the registration of a wireless fee was stated to have been referred and to request you to expedite the submission of the report in the matter without further delay.

I have the

Honor

To be

Dr. Sir

Your

Most

Obedient

Servant

H/C/M

List of enclosures,

Copied by

Examined by H/17/6/12

GPO—35,000—8-8-11

19

No 41

THE CITY MUNICIPAL OFFICE, MYSORE,
Dated 7th September 1912

DIARY 1622
10/210/3
SECTION rel
FILE NO 2 2-11
SERIAL NO 8

From

K.Krishna Iyer, Esq.,

President, City Municipal Council, Mysore

To

K.R.Srinivasaiengar, Esq., M.A.,
Secretary to the Govt of Mysore, General & Revenue Depts

SIR,

current file
D 7247 816

I have the honour to invite kind reference to this office letter No 132 of the 6th June 1912 re the abolition of the levy of registration and surcharge fees on arrack shops in the City and to request the favour of an early reply in the --- matter

I have the honour to be,

S i r,

Your most obedient servant,

K. Krishna Iyer

Vice President

R.V.R

1912.

From

The President, City Muni. Council, Mysore.

To

The Secy. to Govt. of Mysore, Gen and Rev. Depts.

Dated 7th
Despatched 10th } September 1912.
Received

General No 41
No.

Enclosure No.

Requesting the favour of a early reply in the matter of the abolition of the levy of registration and surcharge fees on arrack shops in the city.

G.B.S. 26]

Gpo

Diary No of letter replied to 1622

General and Revenue Secretariat

(Pvt)

, the 19

1912

Signed by Mr SPR

Wyld X

File No. 272 11

Serial No. 9

No 2383

and 272-11-

dy 1912

To

Dear Sir,

Please refer to the correspondence ending with his office letter No. 8252 and 272-11) D 4 dated the 9th May 1912 requesting you to expedite the submission of the

over

SUBJECT

6/11

Report of the Sub Committee to which the question of the right of the Govt. to the registration of marriage fees on awards & shops was stated to have been referred, together with a copy of the Resolution of the Govt Commissioner. This is a matter in which the Govt Commissioner is interested and which requires early consideration. I am therefore to request you to be good enough to submit the information already called for on Early as possible without further delay.

Yours sincerely

B J Hummarasamy Esq B.A

President of the Govt Commissioner

Bangalore city

List of enclosures,

Copied by

Examined by

J.C. Wyk

GPB—10,000—26-8-11.

1912-13
[illegible]

From [illegible]

To The President,
City Municipal Coun
Bangalo

The Secretary to t
Govt of Mysore, Genl & R

Dated 26th Sept, Bangalo

Despatched 26 September 191

Received

General No. 1 8

No

Enclosure No. One

Submitting, for orders, copies of the individual opinions of the members of the Sub-Committee together with a copy of the Council's resolution in the matter of the levy of registration and surcharge fees on arrack shops in the City.

No. 8
Encl one

DIARY No 2003
From

1912-13
2nd
272-11 To
10

Office of the Municipal Council,
City, Bangalore, 24th September 1912.

The President, Municipal Council,
Bangalore City.

The Secretary to the Government of
His Highness the Maharaja of Mysore,
General and Revenue Departments,
Bangalore.

Sir,

Current file

With reference to your letter No 9594/M1.272-11-7 dated the 14th June last in re levy of registration fees on arrack, toddy, foreign liquor and special liquor shops and sur-charge fees on arrack shops, I have the honour to submit herewith copies of the individual opinions of the members of the Sub Committee, together with a copy of the Municipal Council's Resolution dated the 31st ultimo, as called for in the above, for kind information and orders of Government

2 The Circumstances which necessitate the continuance of the levy of the registration and sur-charge fees have been fully set forth in this office letter No. 188 dated the 12th April 1912

3 I only beg to add that this item of revenue was assigned by Government to the Municipality so far back as 1872 and has been enjoyed for the past 40 years The Old Municipal Regulation of 1879 contained necessary provision for the levy of these fees and if the New Regulation has no such provision, necessary amendment has to be made in it.

4 In Madras, Bombay and other places, similar contributions are made by Government to the Municipalities as in Bangalore, to avoid conflict of interests between the Excise Department and the Municipalities

5 As the Municipal revenue will be very materially crippled by the withdrawal of the liquor registration fees

to

to the extent of Rs 20,000, I request that Government may be kindly pleased to issue orders for its continuance as heretofore and to have the Municipal Regulation amended accordingly

I have the honour to be

Sir,

Your most obedient servant,

President

Cur Ext rel 272-11/8/10 24 5

Extract from the Proceedings of the Bangalore City Municipal Council at an Ordinary Meeting held on the 31st August 1912.

x x x

Present.

B J Kumaraswami Naik Esql, B A , President
B S.Ranoji Rao Esq , B.A , Vice President
The Amildar, Bangalore Taluk
The Executive Engineer, Bangalore Division

Absent

The Health Officer, Bangalore City

Municipal Councillors

Messrs -

D A Rees
D B Ramachandra Moodr
C V Narasimmiengar
B K Garuda Char
B Ramachandrappa
D Adeppa
Mir Md Gouse Razvi
C H Krumbiegel
H Ramaiya
B Hanumappa
C Krishnamurti
S Venkatarangaiyengar

Messrs -

C S Doraswami Iyer
B Basappa
B V Ramaswami Chetty
M Subbiah
Beli Srinivasa Rao
D Venkataramayya

Read

7 Report of the Sub-Committee appointed by the Municipal Council in the matter of the stoppage of the levy of Registration and sur-charge fees on arrack shops in the City

Resolution -As the Council cannot afford to forfeit such a large revenue as Rs 18,000, which they have been getting for the last 40 years, the Government are requested to continue the assignment, as otherwise the Council will be under the necessity of proposing a tax on the sale of Excisable articles within Municipal limits in lieu of the Registration and Sur-charge fees

Sd B J.Kumaraswami Naik,
President

"COPIES"

For President

Mr CR

Encl 272-11/81 125

RE -License Fees on Liquor Shops

It is not the Order No. 360-12 dated 17th April 1882 that authorized the Board the levy of such fees The said order purports to be only a circular fixing the scale of fees which varied in different parts of the State The registration fees were levied under the Excise Acts in force from time to time At the time of the assignment of this item to the Municipalities, the Excise Act of X of 1871 was in force The present Excise Regulation V of 1901 which has superseded the previous Regulations makes provision in Section 24 for the levy of such fees This provision is only a repetition of similar provisions in previous enactments which were in force from time to time The Municipal Board, in their Resolution dated 21st February 1872, submitted, among other things, the following to the Government -

"The Chief Commissioner be addressed etc , etc and "that Colonel Meade be solicited to make over to the Board "the proceeds arising from the sale of liquor licenses, "permission to make use of which as a source of unicipal "Revenue had been provided for in Section 34 of the "Bangalore Municipal Regulations of 1871"

Here the request was to make over to the Board the proceeds arising from the sale of liquor licenses although Section 34 provided for the imposition of the tax upon the sale of spirituous and intoxicating liquors The Government agreed to assign this item of revenue in preference to the course of authorising the Board to levy a tax under Section 34 Government, in their letter o 195 dated 1 th August 1872, obtained the sanction of the Government of India for the assignment of this item of revenue and thus gave consent to the proposal of the Board

not available

In para 250 of the Administration Report for 1872-7 , the Government make the following observation with regard

to this item -

"In the year under report, the revenue derived from the "sale of liquors for retail vend of arrack in Bangalore "was transferred to the Municipality with a view to increase its revenues and to prevent the number of shops multiplying indiscriminately beyond the actual require- "ments of the town"

Under Section 1 of Regulation III of 1888, this item of revenue continued to be levied on the authority of the Government of India Notification which has not been repealed up-to-date The disputes between the Municipal Board on the one hand and the Excise Department on the other have occurred on many previous occasions regarding such levies on Gavipur and Munireddipalyam shops A study of the correspondence is interesting so far as it indicates the zeal of the Excise Department to curtail the Municipal revenues In this instance, it is to be regretted that the Government Order was passed on the representation of the Excise Commissioner after calling for a simple report from the President without giving the Board a full opportunity for discussion

The Government Order thus takes away something like 20,000 rupees from the Municipal revenues No doubt, the Board could recommend either in the shape of Octroi or in other forms for levy of duty on the sale of spirituous and intoxicating liquors within Municipal limits and derive better income, but it is to be feared that the Excise Department would not be the better by the Board adopting such a course In Madras and Bombay, similar contributions are made to the Corporations as in Bangalore by avoiding the conflict of interests between the Excise Department and the Corporations Unfortunately, no provision has been made by the Excise Department for cancelling the existing rules on the subject and for substituting other rules as provided in clauses A & B of Section 29 It is to be feared that the legal consequences of sale of intoxicating liquor within Municipal limits of the Bangalore

27

City next year may be serious Excise Department may find it difficult to enforce the provisions of the Act on the contractors in cases of infringement of the material conditions of sale in the absence of formal registration Any other procedure which the Board may ultimately adopt will require a careful consideration of the legal aspects the procedure of levy and the avoidance of conflict between Municipal and Excise officials The final settlement may take considerable time There could be no serious objection for continuing the existing practice, till such time when the Board and the Excise Department together formulate proposals for acceptance by Government

11-4-1912 Sd D Venkataramayya

I agree with Mr Venkataramayya

18-4-1912 Sd B V Ramaswami Chetty

I have had the opportunity of reading the recorded opinions of Mr D Venkataramayya and Mr C V Narasimha Iyengar In the conclusion, I ~~wish~~ agree with Mr Venkataramayya, I wish to reserve my reasons which slightly differs from Mr Venkataramayya, I do not think that Mr Narasimha Iyengar need have labored much about Law, but the question now in issue has to be considered from a different aspect

17-5-1912 Sd C Krishna Murti

The point to answer is, whether or not the registration and sur-charge fees on arrack shops in the City can be legally levied by the Municipal Council under the provisions of the Municipal Regulation of 1908 or any other Regulation It is clear that an executive order of Government, in whatever terms expressed, is incapable of being given effect to, unless it has obtained legislative sanction Such sanction it had under the old regulations

of 1871, there can be no doubt. When or under what circumstances the registration and sur-charge fees were commenced to be levied, it is impossible to gather from the ecord We find, however, that the right of collection was transferred to the Municipality by the Order of the Government of India, dated the 12th August 1872 It must, therefore, be deemed that they were in existence about that time

Section 34 of the old regulations of 1871 enumerates several sources of revenue to the Municipal Exchequer and we find that the levy of registration fees on liquor shops is also contemplated, subject to the approval of the Government of His Highness If we go further, we are met by Section 58 which provides for the recovery of fees for the registering of places for the sale of spirituous liquors, the scale being in accordance with the schedule C-II, Class I of this schedule, fixes a fee of 180 rupees on arrack shops, which is identically the same amount as is authorised by the Order of Government That is why we find that the sale notification dated the 5th March 1896 state that a sum of ₹ 180 per annum is payable in advance as registration fee under the Municipal Regulation in the Cities of Bangalore and Mysore where it was in force, evidently having reference to Section 58 of the Regulation

Further, the saving clause of the Regulation also gives the sanction to the levy of registration fee Section I, clause II of the Regulation, 1871, is in these terms "Any sum of money due, or which may become due under x x x x x lawful authority may be levied and recovered by the municipal Commissioners under the provisions of these regulations and all taxes now levied under due authority may continue to be so levied till the same are revised or annulled" By virtue of this clause, all that was required was that a tax must have been sanctioned by due authority and when this condition was satisfied, legislative sanction was given to the levy of the same Therefore in

29

the case of the registration fee, there being an order promulgated by the Government of India, it obtained legislative sanction by the saving clause also. The registration fee, had, therefore, a double sanction

In the case of sur-charge fees, however, they had the sanction from the saving clause and that is why the sale notification is not in the same terms There was no specific provision relating to them in the Regulation itself This was continued to be levied by virtue of the saving clause and that is why the sale notification made distinction between these fees and registration fees This much as regards the Old Regulation regarding the levy of registration and sur-charge fees

We will now consider whether legislative sanction can be similarly gathered under the Regulation of 1906 A Corporate body like the Municipality is constituted for certain purposes by the Statute and is entirely its creature It has no inherent powers, except such as are conferred by the Statute itself Its powers are defined and anything done in excess of them must be held ULTRA VIRES The terms of such statute ought to be strictly construed & anything done by the corporate body must be watched with zealous scrutiny, because they encroach upon the general rights of a subject and impose pecuniary burdens on him Bearing the above observations in mind, if we turn to the regulation, there is Section 51 which enumerates the several sources of income derived to make up the Municipal Fund This Section 51 corresponds, in a way, to Section 34 of the Old Regulation In this Section, we find nothing like the levy of registration fees contemplated as we find in Section 34 of the Old Regulation, nor, is there corresponding provision in the present regulation corresponding to Section 58 of the Old Regulation and there is no schedule similar to the old one There being thus no specific provision authorising the levy of the registration fee, can it be said that the saving clause of the

Regulation

affords any relief?' This clause runs thus "x x x x taxes and rates imposed x x x under the said regulations shall, so far as may be, be deemed to have been x x x x x imposed under this regulation" It is, therefore, clear that two conditions have to be satisfied before a tax may be said to be in force and they are -

(1) It must be a tax imposed under the repealed regulations

(2) The levy of it must have been contemplated by the present regulations

When both these conditions are not satisfied, it must be held that a tax cannot be levied by virtue of the saving clause To illustrate, the old regulations contemplated the levy of tax on buildings and lands, a tax on vehicles and so forth These are also sanctioned by the new regulations In the case of them, therefore, the saving clause helps their levy without even observing the several preliminaries contemplated by sections 60,61 &c of the regulation In the case of the registration fee, true its levy was authorised by the old regulations but the other condition not being fulfilled as a tax contemplated by the present regulation, cannot be levied at all The case of sur-charge fees is worse because it is not a tax imposed under the old regulation or any other regulation repealed by it, but was only an order of the executive authority These fees fail to satisfy either of the conditions and therefore they have no legislative sanction so far as the present regulation concerned

Next comes the question whether these sums are authorised by any other regulation because section 31 of the present regulation says that moneys received by the Municipal Council by virtue of any other regulation also forms part of Municipal Fund The only regulation relating to this subject is the Excise Regulation V of 1901 This regulation nowhere authorises the collection of registration

and sur-charge fees and to make them over to the Muhicipality Section 18 of the regulation provides the sources for recovering duties on liquors and it may, therefore,be said that if registration fees come within the purview of any of the clauses of that section and sanctioned by rules framed under section 17 of that regulation, still they cannot become Municipal property so long as there is no provision directing them being made over to the Municipality As regards sur-charge fees even that regulation does not seem to contemplate their collection and therefore it may be definitely stated that the other regulation ~~already~~ also does not help the matter Further, when there is one regulation already imposing a burden on a subject, another regulation cannot be construed so as to impose additional burdens unless it is stated in express terms that the legislature intended the imposing of two burdens instead of one No such wording is to be ~~in~~ traced in either of the regulations and therefore I am decidedly of opinion that the levy of registration and sur-charge fees by the Municipal Council is not authorised by either the Municipal or any other regulation

It is stated that a sum of ₨20,000 or more will be lost to the Municipal Council if the registration or sur-charge fees are not collected as heretofore No one can come to its financial rescue if the regulation which calls it into existence does not make adequate provision The observations contained in Bryce on "Ultra Vires" afford an appropriate answer to this and they are in the following terms -

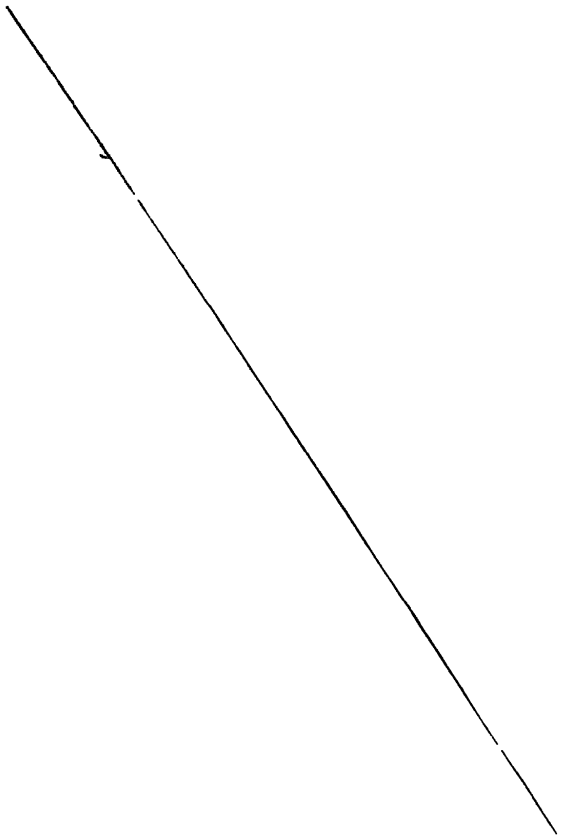
"The legislature must be understood in granting away, in effect, the ordinary rights of the subjects as granting no more than passes by necessary and unavoidable construction and it has been on many occasions and most emphatically decided that private persons must be protected if they possess rights which are being infringed by the legislative

authority, however disastrous the result of such protection may be to the Corporations thus for public purposes injuring private persons"

It is unnecessary for the purpose on hand to follow the course of struggle between the Excise Department and the Municipality merely on account of the interesting features at presents.

Dated 15-5-1912. Sd C V Narasimmiengar

XXXXXXXXXXXXXXXXXXXXXXXX



P T O

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1970

12 13

D.O.No. 33

City Municipal Office, 272-11

Bangalore, 26 September 1912.
27

Dear Sir,

With reference to your D.O.letter No. 2383/M1.272-11-9 dated the 19th Instant in re submission of the report of the Sub Committee about the levy of registration and sur-charge fees on arrack shops etc., with the Municipal Council's resolution thereon, I beg to state that copies of the Sub Committee's report and of the Council's resolution dated the 31st ultimo are submitted to Government with this office letter No. 75 dated the 26 Instant.

Yours sincerely,

President.

S.P.Rajagopala Chari Esq., B.A., B.L.,
Assistant Secretary to Govt,
Local Boards Branch.

94

1203

272-11 No 176

12

The City Municipal Office, Mysore,
Dated 13th November 1912.

From

K.Krishna Iyer, Esq.,
President, City Municipal Council, Mysore

To

K.R.Srinivasa Iyengar, Esq., M.A.,
Secretary to the Govt of Mysore, General & Revenue Depts

Sir,

I have the honour to invite your kind attention to the marginally noted communications of this office re the stoppage of the levy of --- registration and surcharge fees on arrack shops in the City and to request the favour of your obtaining the very early orders of Government in the matter.

87247 / 1622

No.132 dated 6th June 1912
No 41 dated 10th September 1912

I have the honour to be,

Sir,

Your most obedient servant,

M.G.Krishnaswami 13.

Vice President

1912.

From

The President, City Muni
Council, Mysore

To

The Secy to Govt. of Mysore,
Gen and Rev Dept

Dated 13th
Despatched 14th } November 1912
Received

General No. 76

No.

Enclosure No.

Inviting kind attention to
132 & 6th June 1912 re the stoppage
of registration and sale deeds
&c on account of the city
requesting the favor of obtaining
early orders of Govt in the mat

Assigns the registration & surcharge fees realised on assault cases in the cities of Bangalore & Mysore to the respective municipalities

35

G R S. 28]

Con²pm

2107/1912

272

File No 11

97-8-13-245

Serial No 13

94-10-13

Diary No of letter replied to 2796

Proceedings of the Government of His Highness the Maharaja of Mysore

GENERAL AND REVENUE SECRETARIAT

(Mb)

READ—

the 191

Z

Govt order no. 6523-4 (1527-10)-4 dated the 11th March 1912 directing that as the municipal Regulation VII of 1906 does not authorise the levy of either the registration or surcharge fee on assault, the net Coupons of the Bangalore & Mysore cities are

Date of issue 3 10 13

Signed by Hon'ble V Ramanathaiya

SUBJECT

1)

should cease to levy these fees.

2. Govt order No. 4432 SR 197-11 dt 7 the 16th April 1912 directing the levy of these fees by the Excise Department. O

3 Govt order No. 37 SR 197-11 dt 8 dt the 4th July 1912, directing that the said fees be credited to the Excise Revenue under a distinct head in the accounts CV

4. Correspondence ending with letter No. 78 dated the 24th Sep. 1912 from the President and Council Bangalore City & letter No. 132 dated the 6th June 1912 from the President and Council Mysore City requesting for a re-consideration of the Govt order of March 1912 in the interests of the municipalities concerned. current file SR 6

GPS—20,000—9-10-11

G R S 27]

GENERAL AND REVENUE SECRETARIAT

(Continuation sheet draft form.)

Order Henson

No 4066-9 03.10.13
ord 27-11-

Govt observe that through the Municipalities (Expanded) have no legal right to the registration and surcharge fees, their financial condition will be seriously impaired by the sudden withdrawal of this source of large revenue which (the Municipalities) have been enjoying for many years.

2. Govt are accordingly pleased to assign to the municipal Councils of Bangalore & Mysore, the realisations from the Excise revenue under the registration and surcharge fees on arrack shops within their respective municipal

limits, reserving to themselves the right to withdraw the concession at any time when the finances of the municipalities appear to Govt to admit of such a course.

3. Govt further direct that the past practice in respect of these items now held in deposit be transferred to the municipalities concerned.

Rao Bahadur Secy

Dsm 22/9/13

Tabl 20 9.13

Print

To the Secretaries Commissioners

- Comptroller Govt
- President and Council Bangalore City
- Do Mysore City

GPB—15,000—12-11 11

Proceedings of the Government of His Highness the Maharaja of Mysore Local Fund and Sanitary (Municipal), dated 3rd October 1913

READ—

Government Order No 6523 4—Ml 327 10 4 dated the 11th March 1912 directing that as the Municipal Regulation VII of 1906 does not authorise the levy of either the registration or surcharge fees on arrack the Municipal Councils of the Bangalore and Mysore Cities should cease to levy those fees

2 Government Order No 4432—S R 197 11 5 dated the 16th April 1912 directing the levy of those fees by the Excise Department

3 Government Order No [redacted] 37—S R 197 11 8 dated the 4th July 1912 directing that the said fees be credited to the excise revenue under a distinct head in the accounts

4 Correspondence ending with letter No 78 dated the 24th September 1912 from the President Municipal Council Bangalore City and letter No 132 dated the 6th June 1912 from the President Municipal Council Mysore City requesting for a reconsideration of the Government Order of March 1912 in the interests of the Municipalities concerned

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No 4066 9—ML 272 11 13, DATED BANGALORE, 3RD OCTOBER 1913

ORDER THEREON —Government observe that though the Municipalities concerned have no legal right to the registration and surcharge fees, their financial condition will be seriously impaired by the sudden withdrawal of this source of large revenue which the Municipalities had been enjoying for many years

2 Government are accordingly pleased to assign to the Municipal Councils of Bangalore and Mysore, the realisations from the excise revenue under the registration and surcharge fees on arrack shops within their respective Municipal limits reserving to themselves the right to withdraw the concession at any time when the finances of the Municipalities appear to Government to admit of such a course

3 Government further direct that the past proceeds in respect of these items now held in deposit be transferred to the Municipalities concerned

K R SRINIVASIENGAR
Secy to Govt, Gen & Rev Depts

To—The Excise Commissioner in Mysore
The Comptroller Mysore Government
The President Municipal Council Bangalore City
The President Municipal Council Mysore City

Prxd —C R

1913-14

GOVERNMENT OF HIS HIG
THE MAHARAJA OF MYSORE

LOCAL FUND AND SANIT
(MUNICIPAL)

PROCEEDINGS

Dated 3rd October 1913

No. 4066 9
M. [illegible]-11 1

Assigns to the Municipal Councils of Bangalore and Mysore the realisations from the excise revenue under the registration and surcharge fees on arrack shops within their respective Municipal limits.

GPB—29-10-13—400

[illegible] from the date of [illegible]
[illegible] limits, if they are not allowed this —
revenue & requests sanction to the levy
[illegible] & surcharge fees.

In the same, DO no 33 dt 20-9-12. States
[illegible] copies of sub committee's reports & of the
[illegible] resolution are submitted to govt
[illegible] 24 th. inst. vide no 78
from the Presidt mil. cl. mysore; no 76 dt 13-,
[illegible] to early orders re levy of Registration &
[illegible] surcharge fees on arrack shops in the city
To the Asst Comm., Comptr, Presidt. mysore
Bangalore cities mil-cls. no 4066-9 dt 3-10-13
[illegible] the Registration & surcharge fees
[illegible] levied on arrack shops in cities of Bangalore
Mysore.

[illegible]
[illegible]
7-11-13